

In response to the Restriction Requirement, Applicants elect the subject matter defined by the claims of Group I (claims 1-4), with traverse. Applicants reserve the right to pursue the claims of Group II and Group III in continuation applications.

In paragraph 3 of the office action, the Examiner states that the inventions of Groups I and II are related as process and apparatus for its practice and that the inventions are distinct if it can be shown that either (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. The Examiner states that in this case, the apparatus of claims 1-4 can be used to practice another and materially different process such as for determining rubella levels. Therefore, the Examiner contends that Groups I and II are distinct. Applicants respectfully disagree.

The Examiner gives no basis for the idea that the apparatus of claims 1-4 can be used to determine anything other than insulin or C-peptide. In particular, the Examiner gives no basis for the idea that the apparatus of claims 1-4 can be used to determine rubella levels. The apparatus of claims 1-4 detects the presence of insulin or C-peptide. C-peptide detection is a useful indicator of whether or not an individual is producing insulin and roughly how much. Insulin is initially produced in the form of proinsulin. In proinsulin, the alpha and beta chains of active insulin are linked by a third polypeptide chain called "connecting peptide," or "C-peptide."

The term "C-peptide" is well known in the art and the specification as filed provides ample support for its use in the claims. Applicants respectfully submit that the restriction


Application: No. 09/850,363
Filing Date: May 7, 2001
Docket No.: 294-100
Page 3

requirement with regards to Groups I and II is improper because the apparatus of claims 1-4 can not be used to practice another or materially different process from that of claims 5-8. Applicants request the restriction requirement with regards to Groups I and II be withdrawn.

Should the Examiner agree with Applicants that Groups I and II are not distinct, Applicants authorize the Examiner to elect the claims of both Groups I and II (claims 1-8) to be examined in this application..

It is now believed that this application is in condition for further consideration and examination. If resolution of any remaining issues are required prior to examination of the application, it is respectfully requested that the Examiner contact Applicants' undersigned attorney at the telephone number provided below.

Respectfully submitted,



Lauren T. Emr
Attorney for Applicants
Registration No. 46,139

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(516) 822-3550

LTE/nr

146922